

SOLICITATION OF OFFERS
ISSUED BY
THE CITY OF EL PASO
FINANCIAL SERVICES / PURCHASING DIVISION

SOLICITATION NO: 2011-269
TITLE: VENDING MACHINE SERVICES
GENERAL SERVICES

DATE ISSUED: MAY 31, 2011

An original, signed, sealed, OFFER to furnish the goods and/or services set forth in the SCHEDULE will be received at the place indicated below, until:
2:00 PM, local time, WEDNESDAY, JUNE 22, 2011

NOTICE When used in formal bid solicitations, the terms 'offer' and 'bid', and 'offeror' and 'bidder' are interchangeable.

ADDRESS OFFERS TO:
PURCHASING MANAGER
FINANCIAL SERVICES / PURCHASING DIVISION
CITY OF EL PASO

MAIL TO:

CITY OF EL PASO
FINANCIAL SERVICES DEPARTMENT/PURCHASING DIVISION
2 CIVIC CENTER PLAZA, 7TH FLOOR
EL PASO, TX 79901-1153

OR

HAND DELIVER TO:

CITY HALL, 7TH FLOOR
2 CIVIC CENTER PLAZA
FRANKLIN & SANTA FE ST.
EL PASO, TX 79901

FOR ADDITIONAL INFORMATION CONCERNING THIS SOLICITATION, CONTACT:
TERRENCE FREIBURG, PROCUREMENT ANALYST
Telephone: [915] 541-4315 FAX: [915] 541-4347 Email: FREIBURGTX@elpasotexas.gov

EXPIRATION OF OFFERS

The offeror agrees, to furnish all items [supplies or services] at the prices offered, and delivered at the designated point or points, within the time set forth in the SCHEDULE, if this offer is accepted within NINETY [90] consecutive days from the date set for the receipt of offers.

AMENDMENTS TO SOLICITATION

Receipt of all numbered amendments to Solicitations must be acknowledged:

<u>AMENDMENT</u>	<u>DATED</u>	<u>AMENDMENT</u>	<u>DATED</u>	<u>AMENDMENT</u>	<u>DATED</u>	<u>AMENDMENT</u>	<u>DATED</u>
A001	_____	A002	_____	A003	_____	A004	_____
A005	_____	A006	_____	A007	_____	A008	_____

OFFER SUBMITTED BY

COMPANY NAME AS IT APPEARS ON ORGANIZATION CERTIFICATE ISSUED BY STATE IN WHICH COMPANY WAS ORGANIZED)

STREET ADDRESS

P.O. BOX NUMBER

CITY, STATE AND ZIP CODE

TELEPHONE NUMBER

FAX NUMBER

E-Mail address

☐ PLEASE CHECK PREFERRED ADDRESS FOR RECEIVING SOLICITATION DOCUMENTS.

OFFER EXECUTED BY [PLEASE PRINT]

NAME AND TITLE OF PERSON AUTHORIZED TO OBLIGATE COMPANY

SIGNATURE AND DATE OF OFFER

WITHOUT AN ORIGINAL SIGNATURE ON THIS OR OTHER DOCUMENT BINDING THE OFFEROR, THE OFFER WILL BE REJECTED

NOTE: AWARD OF THE CONTRACT RESULTING FROM THIS SOLICITATION WILL BE MADE TO THE SUCCESSFUL OFFEROR BY AN AUTHORIZED WRITTEN NOTICE, WHICH MAY BE IN THE FORM OF A LETTER NOTICE OF AWARD OR A PURCHASE ORDER ISSUED BY THE CITY OF EL PASO. THIS IS A ONE TIME CONTRACT ☐

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NOTICE: PUBLIC DISCLOSURE OF BID INFORMATION

Offerors are cautioned that once a bid is opened, all information contained therein will be available to the **PUBLIC** unless the information is excepted from the requirements of Government Code Section 552.021 pertaining to Open Records. The exception that allows the City to protect information that, if released, would give advantage to a competitor or bidder does not apply after the bidding is complete and the contract has been awarded. *Trade secrets, commercial or financial background data and privileged or confidential information* may be excepted from public inspection. If any information contained in your offer qualifies for an exception because it falls into one of the categories above it should be clearly marked "CONFIDENTIAL" and the basis of your claim of confidentiality should be stated. Data so identified will be maintained as a protected record. Offerors who claim that information contained in a bid should be protected from public disclosure after the award of the contract may be asked to support such claim if the City receives an Open Records request for the information and requests a determination by the Attorney General. [Rev. 04-03-98]

IMPORTANT NOTICE

If you received your copy of this solicitation from the ***BID NET***, or any source other than directly from the City of El Paso, and you plan to respond to it, please notify the City immediately. You will be placed on the active bidders list and will be directly sent all amendments and notices pertaining to the solicitation. It would also be helpful if you would supply a contact person's name along with their telephone number, fax number, and E-mail address.

NOTE: ANY CHANGES IN DUE DATE OR MATERIAL CHANGES FOR ANY RFP'S/SOLICITATIONS WILL BE POSTED ON THE SOLICITATIONS PAGE OF THE CITY OF EL PASO PURCHASING DEPARTMENT'S WEBSITE: http://www.elpasotexas.gov/financial_services/invitations.asp

It is the bidder's responsibility to ensure that they have all pertinent information regarding solicitations, including all amendments prior to submitting their offer. Please check the website, even after submitting a bid, to ensure that you have all amendments as they may be posted at any time, up to and including the day of bid opening.

COOPERATIVE PURCHASING

This contract may be utilized for purchases by other local government entities under an interlocal cooperation agreement, Texas Government Code Chapter 791. Any contract award by the City of El Paso on behalf of another local government entity shall be contingent upon the issuance of a purchase order or execution of a separate contract by the other local government entity. The Contractor must deal directly with the local government entity concerning the placement of orders, issuance of the purchase order, insurance certificates, contractual disputes, invoicing and payment or any other terms and conditions that the other local government entity may require. The actual utilization of this contract award by the other local government entity is at the sole discretion of that other local government entity.

The City of El Paso is acting on the behalf of other local government entities for the sole purpose of complying with Texas competitive bidding requirements and shall not be held liable for any costs, damages, etc. incurred by any bidder with regard to any purchase by another local government entity. The City of El Paso shall be legally responsible only for payment for goods and services in the quantities detailed in the City's own purchase order or contract.

NOTE 1: BIDDERS ARE REQUIRED TO SUBMIT OFFERS ON THE PRESCRIBED FORM(S) (UNALTERED). OFFERS SUBMITTED ON OTHER THAN THE PRESCRIBED FORM(S) MAY BE CONSIDERED INCOMPLETE OR NON-RESPONSIVE. FAILURE TO FURNISH REQUIRED DOCUMENTATION WITH THE BID MAY RESULT IN THE BID BEING DEEMED INCOMPLETE AND NON-RESPONSIVE, RESULTING IN REJECTION.

NOTE 2: THE CITY IS NOT RESPONSIBLE FOR LOCATING OR SECURING ANY INFORMATION THAT IS NOT IDENTIFIED IN THE OFFER AND REASONABLY AVAILABLE TO THE CITY, AND THE CITY WILL NOT BE RESPONSIBLE FOR LOCATING OR SECURING INFORMATION NOT INCLUDED WITH THE OFFER. IN CONDUCTING ITS ASSESSMENT THE CITY MAY USE DATA PROVIDED BY THE BIDDER AND DATA OBTAINED FROM OTHER SOURCES, BUT WHILE THE CITY MAY ELECT TO CONSIDER DATA OBTAINED FROM OTHER SOURCES THE BURDEN OF PROVIDING THOROUGH AND COMPLETE INFORMATION RESTS WITH THE BIDDER.

NOTE 3: THE CITY MAY ACCEPT THE LOWEST RESPONSIBLE AND RESPONSIVE BID BASED ON THE TABULATION OF ANY ONE, COMBINATION OR ALL OF THE BASE BID(S), ALTERNATE BID(S), AND/OR OPTIONAL BID(S) BASED ON THE MOST ADVANTAGEOUS PROJECT BID THAT IS DESIRED BY THE CITY DEPARTMENT INVOLVED AND THAT THE CITY COUNCIL IN THEIR SOLE JUDGMENT DETERMINES IS IN THE CITY'S BEST INTEREST AND BENEFIT.

NOTE 4: AT ANY TIME DURING THE TERM OF THE CONTRACT THE PURCHASING MANAGER OR DESIGNATED PERSONNEL MAY INCREASE OR DECREASE THE SCOPE OF SUPPLIES AND OR SERVICES AS HE MAY FIND NECESSARY TO ACCOMPLISH THE GENERAL PURPOSE OF THE CONTRACT.

NOTE 5: ALL GOODS AND SERVICES DELIVERED SHALL COMPLY WITH THE SPECIFICATIONS SET FORTH IN SECTION B. DESCRIPTIVE LITERATURE CONTAINING SUFFICIENT INFORMATION TO DETERMINE PRODUCT COMPLIANCE WITH SPECIFICATIONS MUST ACCOMPANY BID. THE CITY OF EL PASO RESERVES THE RIGHT TO REQUEST SAMPLES FROM BIDDER(S) PRIOR TO AWARD OF CONTRACT.

NOTE 6: IN ADDITION TO ANY OTHER DISCOUNT, THE CITY IS ENTITLED TO A DEDUCTION FOR FEDERAL EXCISE TAX IF IT IS INCLUDED ON THE MANUFACTURER'S PUBLISHED PRICE LIST FOR APPLICABLE ITEMS, AND CONTRACTOR MUST INVOICE ACCORDINGLY. A FEDERAL TAX EXEMPTION CERTIFICATION WILL BE PROVIDED BY THE CITY, UPON REQUEST.

- NOTE 7:** BIDDER MUST SUBMIT WITH HIS OFFER A COPY OF THE COMPANY'S ORGANIZATION CERTIFICATE ISSUED BY THE SECRETARY OF STATE OF THE STATE IN WHICH THE BIDDER/PROPOSER WAS ORGANIZED. ALSO, A DBA CERTIFICATE MUST BE PROVIDED IF THE BIDDER/PROPOSER USED A TRADE NAME IN THE SOLICITATION DOCUMENTS OTHER THAN THE NAME UNDER WHICH THE COMPANY WAS ORGANIZED. FURTHER, THE BIDDER/PROPOSER MUST FILL OUT THE AFFIDAVIT IN SECTION D STATING WHAT NAMES THE COMPANY USES AND HAS USED IN THE PAST AND ATTEST THAT ALL SUCH NAMES DESCRIBE THE COMPANY CURRENTLY SUBMITTING A BID OR PROPOSAL.
- NOTE 8:** ACCURACY OF ESTIMATED QUANTITIES – THE CITY BELIEVES THAT THE NUMBERS USED AS ITEM QUANTITIES TO BE A REASONABLY ACCURATE ESTIMATE; HOWEVER, THE ACTUAL QUANTITY MAY BE MORE OR LESS THAN THE ESTIMATE, AND SHALL NOT BE THE BASIS FOR ANY CHANGE IN THE CONTRACT PER UNIT PRICE. ADDITIONALLY, ESTIMATES ARE MINIMUMS, BUT NOT GUARANTEED MINIMUMS, AND THE CONTRACT COST CAN INCREASE SO LONG AS THE UNIT COSTS REMAIN THE SAME AND INCREASED FUNDS ARE APPROPRIATED IN THE BUDGET.
- NOTE 9:** ANY MANUFACTURER NAMES, TRADE NAMES, BRAND NAMES, OR CATALOG NUMBERS USED IN THESE SPECIFICATIONS ARE FOR THE PURPOSE OF DESCRIBING AND ESTABLISHING MINIMUM REQUIREMENTS OR LEVEL OF QUALITY AND DESIGN REQUIRED. THEY ARE IN NO WAY INTENDED TO PROHIBIT THE BIDDING OF OTHER MANUFACTURERS' ITEMS OF EQUAL MATERIAL AND QUALITY OR MEANT TO EXCLUDE ANY OTHER MAKE AND MODEL FROM BEING CONSIDERED. VENDORS WHO WISH TO BID A FUNCTIONALLY EQUIVALENT ITEM(S) WHICH MEETS OR EXCEEDS THE SPECIFICATIONS MUST FURNISH WITH THE BID DESCRIPTIVE LITERATURE CONTAINING SUFFICIENT INFORMATION TO DETERMINE PRODUCT COMPLIANCE.
- NOTE 10:** ALL OFFERS ARE SUBJECT TO THE TERMS AND CONDITIONS OF THIS SOLICITATION. MATERIAL EXCEPTIONS TO THE TERMS AND CONDITIONS, OR FAILURE TO MEET THE CITY'S MINIMUM SPECIFICATIONS, SHALL RENDER THE OFFER NON-RESPONSIVE TO THE SOLICITATION.
- NOTE 11:** AWARD MAY BE MADE BY LINE ITEM, BY GROUP OF ITEMS, OR ONE AWARD FOR ALL ITEMS, WHICHEVER IS MOST ADVANTAGEOUS TO THE CITY.
- NOTE 12:** PROMPT PAYMENT DISCOUNTS WILL BE CONSIDERED WHEN DETERMINING THE APPARENT LOWEST BIDDER, PROVIDING THE CITY IS ALLOWED AT LEAST TEN (10) DAYS IN WHICH TO TAKE ADVANTAGE OF THE DISCOUNT.
- NOTE 13:** AS PART OF THE REQUIREMENT TO ESTABLISH THE RESPONSIBILITY OF THE OFFEROR, THE CITY OF EL PASO MAY PERFORM A PRICE ANALYSIS TO DETERMINE THE REASONABLENESS OF THE PRICE(S) AT WHICH THE SUPPLIES AND/OR SERVICES ARE OFFERED. PRICES THAT ARE SIGNIFICANTLY LOWER THAN THE MEAN OF ALL OFFERS AND THAT APPEAR TO BE UNREASONABLY LOW MAY BE DETERMINED TO BE EVIDENCE OF NON-RESPONSIBILITY, AND CAUSE THE OFFER TO BE REJECTED.

CONE OF SILENCE

“Cone of Silence” is imposed upon each RFP, RFQ or Bid after advertising and terminates at the time the Purchasing Manager places a written recommendation on City Council Agenda. The Cone of Silence prohibits any communication regarding RFPs, RFQs or Bids between, among others:

- Potential vendors, service providers, bidders, lobbyists or consultants and City’s staff.
- Potential vendors, service providers, bidders, lobbyists or consultants, any member of the City’s staff, the Mayor, Council Representatives or their respective staff and members of the respective selection committee.

The provisions do not apply to, among other communications:

- Oral communications with the Purchasing Manager or Contract Administrator, provided the communications is limited strictly to matters of process or procedure already contained in the solicitation document;
- The provisions of the Cone of Silence do not apply to oral communications at pre-proposal or pre-bid conferences, oral presentations before selection committees, contract negotiations during duly notice public meeting, public presentations made to the Mayor and Council Representatives during a duly noticed public meeting; or
- Communications in writing at any time unless specifically prohibited by the applicable RFP, RFQ or bid document.

In addition to any other penalties provided by law, violation of the Cone of Silence by any proposer or bidder shall render that proposer’s or bidder’s RFP, RFQ or bid award voidable. Any person having personal knowledge of a violation of these provisions shall report such violations to the City Attorney.

REQUESTS FOR CLARIFICATION

In order to meet the City’s schedule for awarding this requirement it is extremely important that requests for clarification or additional information, or requests for a change in the specifications, be submitted in writing no later than ten calendar days prior to bid opening date. Each vendor submitting questions shall clearly address each question by reference to a specific section, page and item of this solicitation. Questions submitted after this date may not elicit a response. Please refer to Bid/Contract Number and Title in all correspondence.

CONTRACT ADMINISTRATOR CONTACT INFORMATION

TERRENCE FREIBURG
PROCUREMENT ANALYST
Fax: (915) 541-4347
Email: FREIBURGTX@elpasotexas.gov

City of El Paso
Financial Services Department/Purchasing Division
2 Civic Center Plaza, 7th Floor
El Paso, TX 79901-1153
Attn: TERRENCE FREIBURG

It is the vendor’s responsibility to follow up and make certain that the City of El Paso Purchasing Division received the request. Vendors shall promptly notify the City of El Paso Purchasing Division of any ambiguity or inconsistency which they may discover upon examination of a solicitation document. During the bid process, vendors shall not contact any City staff except those designated in the text of this solicitation or in subsequent documentation. Non-compliance with this provision may result in rejection of the offer involved.

Schedule of Events

The following Schedule of Events represents the City's estimate of the timetable that will be followed in connection with this solicitation:

EVENTS	DATE AND/OR TIME
Release Bids	05/24/2011
Last Day for Offerors to Submit Written Questions	06/13/2011
Answers provided	06/16/2011
Bid Due Date	06/22/2011
Evaluations	06/30/2011
Contract Award Date	TBD

The reserves the right, at its sole discretion, to adjust this Schedule of Events as it deems necessary. If necessary, the City will communicate adjustments to any event in the Schedule of Events in the form of an amendment. Amendment to this RFP will only be issued and posted on the City's website at: http://www.elpasotexas.gov/financial_services/invitations.asp

COPIES REQUIRED

ONE COMPLETE ORIGINAL COPY (signed in blue ink), and ONE COPY of the BID PACKAGE are required, unless otherwise stated in Section B. Bidders must provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. The bidder shall submit the bid on the forms (UNALTERED) as furnished by the City. All bids shall contain the following:

1. Those pages on which you are required to fill in prices, furnish other information, or which call for a signature and those pages which include the City of El Paso Standard Contract Clauses (Section C), and
2. Any other information requested.

The submission or attachment of company "Quotation Forms" or any other documents containing alternative terms and / or conditions is not acceptable and may result in your bid being deemed non-responsive. Unauthorized additions, serious omissions, bids that do not contain a unit price where required or irregularities of any kind which make the bid incomplete, indefinite, or otherwise ambiguous are not acceptable and may result in your bid being deemed non-responsive.

SECTION A
SCHEDULE OF ITEMS

VENDING MACHINE SERVICES
GENERAL SERVICES

BID NUMBER: 2011-269

BID OPENING DATE: 06/22/2011

The City of El Paso is soliciting bids for VENDING MACHINE SERVICES, primarily for the GENERAL SERVICES. The City shall order all of its supplies and/or services from one or more successful bidders (contractors) from time to time as needed. Only personnel from GENERAL SERVICES are authorized to directly place orders against this Contract. Personnel from other City departments may only utilize this contract with express written authorization from GENERAL SERVICES and only if the additional usage is within reasonableness given the total awarded amount of the Contract.

This is a **LOW BID {BEST VALUE}** procurement.

The term of this contract shall be for: **THIRTY SIX (36) MONTHS**.

BID FORM

Note: Vendors are required to respond to both the "Percent of Monthly Gross Revenue" **and** "Minimum Monthly Guarantee" and agree to pay the higher of the two when compared to the monthly financial reports (monthly sales volume) that are specified in Section B, Item 2.1 - Financial Matters.

YES ☐ NO ☐

ITEM #1: SNACK VENDING MACHINE SERVICE (Estimated 50 to 75 Vending Machines)	PERCENT OF MONTHLY GROSS REVENUE PAID TO CITY (MINIMUM OF 15%) <hr/> <i>Per machine</i>	MINIMUM MONTHLY GUARANTEE TO THE CITY OF EL PASO <hr/> <i>Per machine</i>
ITEM #2: ICE CREAM VENDING MACHINE SERVICE (Estimated 10 to 20 Vending Machines)	PERCENT OF MONTHLY GROSS REVENUE PAID TO CITY (MINIMUM OF 15%) <hr/> <i>Per machine</i>	MINIMUM MONTHLY GUARANTEE TO THE CITY OF EL PASO <hr/> <i>Per machine</i>

BIDDER'S [COMPANY] NAME _____

2011-269 VENDING MACHINE SERVICES

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ITEM #3: BEVERAGE VENDING MACHINE SERVICE (Estimated 145 to 175 Vending Machines)	PERCENT OF MONTHLY GROSS REVENUE PAID TO CITY (MINIMUM OF 15%) _____% <i>Per machine</i>	MINIMUM MONTHLY GUARANTEE TO THE CITY OF EL PASO \$ _____ <i>Per machine</i>
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ITEM #3 (CONTINUED): BEVERAGE VENDING MACHINE SERVICES. Indicate; 1) Vending Price, 2) Percent (%) paid to the City from Vending Revenue; and 3) Annual Estimated Income paid based on the estimated annual quantities.

[Multiply Column #2 X "24" (units per case) X Column #4 X Column #5 = Column 6]

Col. 1	Column 2	Column 3	Column 4	Column 5	Column 6
Item No.	Estimated Annual Quantity	Item Description	Vending Price	Percent (%) Paid to City from Vending Revenue	Annual Estimated Income
1.	6,750 Cases	12 oz/24 Cans – (carbonated soft drinks)	\$ _____	_____ %	\$ _____
2.	6,750 Cases	20 oz/24 Plastic Bottles (carbonated soft drinks)	\$ _____	_____ %	\$ _____
3.	2,250 Cases	20 oz/24 Plastic Bottles (water)	\$ _____	_____ %	\$ _____
4.	2,250 Cases	20 oz/24 Plastic Bottles (sport drinks)	\$ _____	_____ %	\$ _____
5.	1,500 Cases	20 oz/24 Plastic Bottles (juice)	\$ _____	_____ %	\$ _____
				Estimated Annual Total	\$ _____

BIDDER'S [COMPANY] NAME _____

2011-269 VENDING MACHINE SERVICES

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OPTION TO EXTEND THE TERM OF THE AGREEMENT

NOTE: NOT AN AWARD FACTOR – CHECK ALL APPROPRIATE BOXES

The City at its sole discretion, may exercise any option to extend the term of the agreement, by giving the Contractor written notice within the time period noted on the selected options.

Bidder offers the City the option of extending the term of the contract for:

- ☐ **One** [1] additional year at the same unit price(s), if the option is exercised prior to the expiration of the original term of the Contract:
- ☐ **Two** [2] additional years at the same unit price(s), if the option is exercised prior to the expiration of the original term of the Contract:
- ☐ **NO OPTION OFFERED**

PROMPT PAYMENT

Unless a prompt payment discount is offered and accepted by the City of El Paso, payments will be made to the Contractor within thirty (30) days following acceptance of goods or services, or receipt of a properly prepared invoice by the City Department identified in the Invoice Instructions set forth on the Purchase Order, whichever is later. Any discount for prompt payment will be calculated from the day goods or services are accepted or when a properly prepared invoice is received. Payments will be considered to have been made on the date of mailing (postmark) of the payment check or, for an electronic funds transfer, the specified payment date. Invoices are to be submitted in single copy to the appropriate Department.

PAYMENT TERMS: Please mark appropriate block.

- _____ % - 10 Days ☐
- _____ % - 20 Days ☐
- _____ % - 30 Days ☐
- Net - 30 Days ☐

Late Payment fees will incur at the State of Texas statutory rate.

ADDITIONAL PAYMENT TERMS

The City of El Paso may authorize payment through the City's Procurement Card Program for goods and/or services ordered under the contract resulting from this Solicitation.

Bidder agrees to accept payment by procurement card:

- YES** ☐
- NO** ☐

BIDDER'S [COMPANY] NAME _____

SUBCONTRACTOR AND/OR SUPPLIER IDENTIFICATION

The Bidder shall indicate below the name of each subcontractor and/or supplier the bidder will use in the performance of the contract. The Bidder shall specify the work to be performed by the subcontractor or the materials to be provided by the supplier. Any changes in subcontractor and/or supplier listed below shall require prior approval by the Purchasing Office.

Name, Address & Phone Number	Service / Supplies

CITY'S REQUIRED DELIVERY

Delivery shall be made within _____ consecutive calendar days subsequent to the receipt by the contractor of a written notice of award, or purchase order, as evidenced by the date of receipt shown on the US Postal Service domestic return receipt or facsimile.

DELIVERY LOCATION

F.O.B. point to be identified for each order.

EMERGENCY DELIVERY AND REQUIREMENTS

Emergency delivery (After-hours, Holidays, and Weekends) of parts may be required in some instances. The contractor must be able to respond and provide such parts. The contractor will be compensated the actual cost of premium time and transportation, to effect emergency delivery, when specifically authorized by the ordering department. The contractor is asked to provide after-hours/emergency contact(s).

CONTACT PERSON: _____ PHONE: _____

ALTERNATE: _____ PHONE: _____

EVALUATION CRITERIA

Cost 70%

As part of the requirement to establish the responsibility of the offer, the City of El Paso may determine the reasonableness of the price(s) at which the services are offered. Prices which are significantly lower than the mean of all offers, and appear to be unreasonably low, may be determined to be evidence of non-responsibility, and cause the offer to be rejected.

Reputation & Quality of the Bidder's Service 15%

Bidder shall identify its full client history for the last three (3) years, including any local Government Services. The bidder shall provide at least three (3) references for which they have provided continuous similar services for at least the past two (2) years. The agency shall provide the names and telephones numbers of the contract administrators for whom the work was performed. If you do not have three local Government contracts, then list Federal, State, or commercial contracts to complete this information.

Employee Medical Benefits and Incentives 10%

Identify employee benefits. Indicate if benefits are paid in full or in part by your business. (Examples: medical, dental, vision, retirement savings, education plans, paid vacation, etc.) Please Note: Bidder must fill out the Best Value Evaluation Questionnaire and submit with Offer.

Past Relationship/Performance with the City 5%

Bidder shall identify previous contracts with the City of El Paso in the past five (5) years for which it has performed at a continuously high level of service throughout its tenure as evidenced by providing current City Recommendation letters submitted with this bid. Bidders not meeting the City's standard of a continuous "high level of service" may be deemed non-responsible and may cause the offer to be rejected.

EVALUATION INFORMATION

1. Reputation & Quality of the Bidder's Services:

The bidder shall provide at least three (3) references for which they have provided continuous services for at least the past two (2) years. The agency shall provide the names and telephones numbers of the contract administrators for whom the work was/is performed. (If you do not have three local Government contracts, then list Federal, State, or commercial contracts, in that order.)

- 1) _____
- 2) _____
- 3) _____

You may provide additional references on a separate piece of paper, if necessary.

2. Employee Medical Benefits and Incentives:

A. Identify employee benefits. Indicate if benefits are paid in full or in part by your business. (Examples: what percentage is paid by the company for medical, dental, and/or vision insurance, retirement savings, education plans, paid vacation, etc?)

B. Does your company provide paid medical benefits to its employees? If yes, please identify and provide documentation.

C. Does your company offer medical benefits? If yes, does your company pay a percentage of the cost? If so, what percentage? Please identify and provide documentation.

D. What is the current number of employees working for your firm who are covered by employer sponsored medical benefits?

3. Past Relationship/Performance with the City:

The bidder will identify previous contracts with the City for the past five years and provide current City recommendation letters.

1)

2)

3)

SECTION B **SPECIFICATIONS**

VENDING MACHINE SERVICES **GENERAL SERVICES**

BID NUMBER: 2011-269
BID OPENING DATE: 06/22/2011

GENERAL CONDITIONS

1. **MINIMUM SPECIFICATIONS:** The specifications listed are to be interpreted as meaning the minimum required by the City. Offeror commits to provide goods/services that are consistent with the City's specifications in every regard unless an exception is clearly noted. The City may accept a bid subject to an exception if, in the sole judgment of the City, the bid meets or exceeds the City's specifications. If the goods/services offered do not meet or exceed the City's specifications because of the exception, the City will consider the bid non-responsive.
2. **SAFETY AND CAPACITY INSPECTIONS:** The City reserves the right to conduct safety and capacity inspections of facilities, equipment, and staff prior to the award and periodically during the contract term. If, in the sole discretion of the City, a vendor is deemed to have inadequate safety equipment and/or procedures, has a track record of safety violations, or has insufficient capacity to honor the contract requirements then the vendor may be declared non-responsible.
3. **MATERIALS AND FABRICATION:** Details of construction and materials, where not otherwise specified, are left to the discretion of the manufacturer, provided that only materials and workmanship of the highest quality are to be used, and best commercial practice is adhered to in the fabrication of the unit(s). Except as otherwise specified herein, the manufacturer shall be solely responsible for design and construction of the product to meet the stated performance criteria.
4. **REFERENCE TO BRAND NAMES:** Any manufacturer names, trade names, brand names, or catalog numbers used in these specifications are for the purpose of describing and establishing minimum requirements or level of quality and design required, and are in no way intended to prohibit the bidding of other manufacturers' item of equal material and quality.

SPECIFICATIONS

The City of El Paso is soliciting bids for Vending Machine Services for use by various city departments. This bid is comprised of three categories of vending services; 1) snack, 2) ice cream, and 3) beverage. As such, the City reserves the right to make individual or multiple awards within each category of vending service identified.

DEFINITIONS:

1. **City:** means the City of El Paso, Texas.
2. **Contractor:** means the successful bidder.
4. **Gross Revenue:** means all monies collected from transactions made and for services rendered by the Contractor in the operation of the Vending Machines. Uncollectible or uncollected fees, or other bad debts, cash shortages due to errors or pilferage of Contractor's personnel shall not be included in Gross revenue.

BIDDER'S [COMPANY] NAME _____

5. **Revenue Control System:** means the equipment provided by the Contractor and used to control and record, including, but not limited to, coin boxes, checker's sheets, payment envelopes, cashier deposit forms, signage and other management systems existing or to be established.
6. **Minimum Monthly Guarantee:** means the Amount that Contractor agrees that the city, at a minimum will be paid each month.

HEALTHIER CHOICE INITIATIVE

On January 6, 2011, the City of El Paso adopted an initiative to make obesity prevention a priority and to make policy recommendations toward obesity prevention. As such, an Obesity Prevention Action Plan was adopted that included the Employee Wellness Program which states the program emphasize improved nutrition, physical activity, and safety. As such, the city requires that at least ten percent (10%) of all snacks and beverages offered shall be healthy food options that are low calorie, low fat, low sodium, and low in sugars as those terms are defined by the Food And Drug Administration (FDA) pursuant to 21 C.F.R. Part 101, and incorporated herein by reference, and FDA's Appendix A: Definitions of Nutrient Content Claims, attached hereto as Exhibit "A" at the end of this section (Section B – Specifications).

1. REQUIREMENTS

The contractor will provide all services necessary for the beverage, snack, and ice cream vending machines in accordance with all local, state and federal laws and regulations. These services shall include all necessary personnel, labor, transportation, packaging, equipment and the compilation and submission of all documents required. The Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses and permits.

The City reserves the right to increase or decrease the total number of Vending Machines included within any designated location. Contractor agrees that any additional Vending Machine(s) shall be subject to all the terms, provisions, covenants and conditions of this solicitation.

Please Note: Vendors must submit a product list documenting compliance with the "Healthier Choice Initiative" as described above.

Performance includes, but is not limited to:

- 1.1 A good mix variety of beverages, snacks & ice cream shall be offered at each location. Beverages containers must be aluminum or plastic, **no glass.**
- 1.2 Vending Machines shall be new or recently reconditioned and must be current as to model and shall accept both coins and bills. **The city agrees that the vending machines shall remain the property of the Contractor and the City has no intention of acquiring ownership of said machines.** Contractor shall ensure compatibility of machines and power outlets presently in place.
- 1.3 Maintenance shall be scheduled to maintain vending machines in good working order and in a clean and sanitary condition. **The Contractor is solely responsible for any and all maintenance or equipment malfunctions and subsequent repairs that may be required, even where such maintenance, equipment malfunctions or repairs results from or involves damage or destruction by vandalism of the vending machine while on City property.** The Contractor agrees to repair or replace any machine to the satisfaction of the City and in a manner that complies with applicable federal, state and local laws and regulations.

Repairs and service must be available during hours of operation for all facilities. **The maintenance, repairs or replacement shall be at no cost to the City. Ice cream vending machines must operate at such temperatures as to ensure that the product(s) is kept at the correct temperature. THE CITY WILL NOT BE RESPONSIBLE FOR PRODUCT SPOILAGE DUE TO ELECTRICAL OUTAGES.**

- 1.4 **PRICE DECREASES: When a contract item price decreases, contractor must pass the decrease on to the City.**
- 1.5 Repairs or restocking must commence on or before four (4) hours after call is placed by City personnel. Such repairs or restocking must be complete within two (2) business days.
- 1.6 Should an emergency arise for the beverage, snack, or ice cream vending machines for which services are not available, the City reserves the right to secure such service from other sources to meet its immediate needs without prejudice of the Contract and it is deemed in the best interest of the City to do so.
- 1.7 Restocking must be done in such frequency as to adequately meet demand at the specified facilities and delivery schedule shall be coordinated with facility's representative during that facilities normal operating hours.
- 1.8 The Contractor shall provide delivery and anchored installation to prevent tip-over of machines and stock, and provide service and repair of machines as necessary. Installation and operation of machines and quality of products must meet all applicable Federal, State and local laws, regulations and ordinances.
- 1.9 Contractor will report to the City immediately after it becomes aware of any suspicion of theft by employees or any allegations of employee dishonesty.
- 1.10 The City reserves the right to change the mix of machines at any location by notifying the Contractor verbally within 14 days.
- 1.11 Contractor must maintain a **fresh product mix** at all times. Failure to do so may result in the termination of Contract.
- 1.12 Contractor will be responsible for all cleaning required to keep the Vending Machines and associated equipment in a safe, clean, neat, orderly and attractive condition.
- 1.13 **Customer Claims and Complaints:** Contractor will investigate and report to the facilities Department Head or Supervisor in a manner satisfactory to the City, all complaints and all claims made for loss of or damage. In the event that any written customer complaint with respect to Contractor's operations at any City location is delivered to Contractor, Contractor agrees that it will deliver a copy of the complaint to the respective Department Head or Supervisor within twenty-four (24) hours after Contractor's receipt of the complaint and will promptly prepare a response for the Department Head to review, making a good-faith attempt to explain, resolve or rectify the cause of the complaint. Contractor will prepare and send, to the complainant and to the City, Contractor's final written response. The Department Head reserves the right to respond to such complaint directly.

2. FINANCIAL MATTERS

- 2.1 The Contractor shall submit monthly financial reports reflecting monthly volume and sales for each machine at specified locations or other departments as appropriate.
- 2.2 Payment shall be paid to the City within Thirty (30) consecutive days from the end of prior calendar month.
- 2.3 The Contractor shall pay the City by cashiers check or company check payable to the City of El Paso, delivered or mailed to the City Comptroller's Office.
- 2.4 A copy of this check shall be sent to the City of El Paso's respective Department for which it was generated.
- 2.5 Contractor will at all times during the term of the contract, maintain complete and accurate books and records of its operations in a form consistent with good accounting practice, including such books and records as would normally be examined by an independent certified public accountant performing an audit or examination of Contractor's receipts and expenses in accordance with generally accepted auditing standards.
- 2.6 Any sum payable to the City by Contractor under any provisions of the Agreement which are not paid when due will bear interest from the due date at the maximum rate allowed by the laws of the State of Texas.

1. EQUIPMENT LOCATIONS

Vending equipment is located at facilities throughout the City of El Paso. Exact locations and numbers of all equipment will be provided upon award of this solicitation.

EXHIBIT A – Definitions of Nutrient Content

Definitions of Nutrient Content Claims (FDA, October 2009)

Content Claims ("Free," "Low," "Reduced/Less")			
Free	Low	Reduced/Less	Comments
<p>Synonyms for "Free": "Zero", "No", "Without", "Trivial Source of", "Negligible Source of", "Dietarily Insignificant Source of"</p> <p>Definitions for "Free"</p>	<p>Synonyms for "Low": "Little", ("Few" for Calories), "Contains a Small Amount of", "Low Source of"</p>	<p>Synonyms for "Reduced/Less": "Lower" ("Fewer" for Calories)</p> <p>"Modified" may be used in statement of identity</p>	<p>For "Free", "Very Low", or "Low", must indicate if food meets a definition without benefit of special processing, alteration, formulation or reformulation; e.g., "broccoli, a fat-free food" or "celery, a low calorie food"</p>

for meals and main dishes are the stated values per labeled serving		Definitions for meals and main dishes are same as for individual foods on a per 100 g basis	
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Definitions of Nutrient Content Claims

Nutrient	Free	Low	Reduced/Less	Comments
Calories 21 CFR 101.60(b)	Less than 5 cal per RACC and per labeled serving (b)(1)	40 cal or less per RACC (and per 50 g if RACC is small) (b)(2) Meals and main dishes: 120 cal or less per 100 g (b)(3)	At least 25% fewer calories per RACC than an appropriate reference food (for meals and main dishes, at least 25% fewer calories per 100g) Reference food may not be "Low Calorie" Uses term "Fewer" rather than "Less" (b)(4) & (5)	"Light" or "Lite": if 50% or more of the calories are from fat, fat must be reduced by at least 50% per RACC. If less than 50% of calories are from fat, fat must be reduced at least 50% or calories reduced at least 1/3 per RACC 21 CFR 101.56(b) "Light" or "Lite" meal or main dish product meets definition for "Low Calorie" or "Low Fat" meal and is labeled to indicate which definition is met 21 CFR 101.56(d) For dietary supplements: Calorie claims can only be made when the reference product is greater than 40 calories per serving 21 CFR 101.60(a)(4)
Total Fat 21 CFR 101.62(b)	Less than 0.5 g per RACC and per labeled serving (or for meals and main dishes, less than 0.5 g per labeled serving) (b)(1) Contains no ingredient that is fat	3 g or less per RACC (and per 50 g if RACC is small) (b)(2) Meals and main dishes: 3 g or less per 100 g and not more than 30% of	At least 25% less fat per RACC than an appropriate reference food (or for meals and main dishes, at least 25% less fat per 100g) (b)(4) & (5) Reference food may not be "Low Fat"	"__% Fat Free": may be used if food meets the requirements for "Low Fat" 21 CFR 101.62(b)(6) 100% Fat Free: food must be "Fat Free" (b)(6)(iii) "Light"--see previous Calorie

	or understood to contain fat, except noted below (* ²).	calories from fat (b)(3)		<p>comments</p> <p>For dietary supplements: total fat claims cannot be made for products that are 40 calories or less per serving 21 CFR 101.62(a)(4)</p>
<p>Saturated Fat 21 CFR 101.62(c)</p>	<p>Less than 0.5 g saturated fat and less than 0.5 g trans fatty acids per RACC and per labeled serving (or for meals and main dishes, less than 0.5 g saturated fat and less than 0.5 g trans fatty acids per labeled serving) (c)(1)</p> <p>Contains no ingredient that is understood to contain saturated fat except as noted below (*³)</p>	<p>1 g or less per RACC and 15% or less of calories from saturated fat (c)(2)</p> <p>Meals and main dishes: 1 g or less per 100 g and less than 10% of calories from saturated fat (c)(3)</p>	<p>At least 25% less saturated fat per RACC than an appropriate reference food (or for meals and main dishes, at least 25% less saturated fat per 100g) (c)(4) & (5)</p> <p>Reference food may not be "Low Saturated Fat"</p>	<p>Next to all saturated fat claims, must declare the amount of cholesterol if 2 mg or more per RACC; and the amount of total fat if more than 3 g per RACC (or 0.5 g or more of total fat per RACC for "Saturated Fat Free") (or for meals and main dishes, per labeled serving) 21 CFR 101.62(c)</p> <p>For dietary supplements: saturated fat claims cannot be made for products that are 40 calories or less per serving 21 CFR 101.62(a)(4)</p>
<p>Cholesterol 21 CFR 101.62(d)</p>	<p>Less than 2 mg per RACC and per labeled serving (or for meals and main dishes, less than 2 mg per labeled serving)</p> <p>Contains no ingredient that contains cholesterol except as noted below (*⁴) (d)(1)</p>	<p>20 mg or less per RACC (and per 50 g of food if RACC is small) (d)(2)</p> <p>Meals and main dishes: 20 mg or less per 100 g (d)(3)</p>	<p>At least 25% less cholesterol per RACC than an appropriate reference food (or for meals and main dishes, at least 25% less cholesterol per 100g) (d)(4) & (5)</p> <p>Reference food may not be "Low Cholesterol"</p>	<p>Cholesterol claims only allowed when food contains 2 g or less saturated fat per RACC; or for meals and main dish products, per labeled serving size for "Free" claims or per 100 g for "Low" and "Reduced/Less" claims</p> <p>Must declare the amount of total fat next to cholesterol claim when fat exceeds 13 g per RACC and labeled serving (or per 50 g of food if RACC is small), or when the fat exceeds 19.5 g per labeled serving for main dishes or 26 g for meal products</p> <p>For dietary supplements:</p>

				cholesterol claims cannot be made for products that are 40 calories or less per serving
Sodium 21 CFR 101.61	<p>Less than 5 mg per RACC and per labeled serving (or for meals and main dishes, less than 5 mg per labeled serving) (b)(1)</p> <p>Contains no ingredient that is sodium chloride or generally understood to contain sodium except as noted below (*⁵)</p> <p>"Salt Free" must meet criterion for "Sodium Free" (c)(1)</p>	<p>140 mg or less per RACC (and per 50 g if RACC is small) (b)(4)</p> <p>Meals and main dishes: 140 mg or less per 100g (b)(5)</p> <p>"Very Low Sodium": 35 mg or less per RACC (and per 50g if RACC is small). For meals and main dishes: 35mg or less per 100g (b)(2) & (3)</p>	<p>At least 25% less sodium per RACC than an appropriate reference food (or for meals and main dishes, at least 25% less sodium per 100g)</p> <p>Reference food may not be "Low Sodium" (b)(6) & (7)</p>	<p>"Light" (for sodium reduced 21 CFR products): if food is "Low Calorie" and "Low Fat" and sodium is reduced by at least 50%. 21 CFR 101.56(c)(1)</p> <p>"Light in Sodium": if sodium is reduced by at least 50% per RACC. 21 CFR 101.56(c)(2)</p> <p>For meals and main dishes, "Light in Sodium" meets definition for "Low in Sodium" 21 CFR 101.56(d)(2)</p> <p>"No Salt Added" and "Unsalted" must declare "This is Not A Sodium Free Food" on information panel if food is not "Sodium Free" 21 CFR 101.61(c)(2)</p> <p>"Lightly Salted": 50% less sodium than normally added to reference food and if not "Low Sodium", so labeled on information panel 21 CFR 101.56(g)</p>
Sugars 21 CFR 101.60(c)	<p>"Sugar Free": Less than 0.5 g sugars per RACC and per labeled serving (or for meals and main dishes, less than 0.5 g per labeled serving) (c)(1)</p> <p>Contains no ingredient that is a sugar or generally</p>	<p>Not Defined.</p> <p>May not be used</p>	<p>At least 25% less sugars per RACC than an appropriate reference food (or for meals and main dishes, at least 25% less sugar per 100g)</p> <p>May not use this claim on dietary supplements of vitamins and minerals</p>	<p>"No Added Sugars" and "Without Added Sugars" are allowed if no sugar or sugar containing ingredient is added during processing. State if food is not "Low" or "Reduced Calorie" (c)(2)</p> <p>The terms "Unsweetened" and "No Added Sweeteners" remain as factual statements</p>

	understood to contain sugars except as noted below (* ⁶) Disclose calorie profile (e.g., "Low Calorie")		(c)(5) & (6)	(c)(3) Does not include sugar alcohols For dietary supplements: "Sugar Free" and "No Added Sugar" may be used for vitamins and minerals intended to be used by infants and children less than 2 years of age. (c)(4)
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Notes: * Except if the ingredient listed in the ingredient statement has an asterisk that refers to footnote (e.g., "** adds a trivial amount of fat").

- RACC = Reference Amounts Customarily Consumed.
- Small RACC = Reference Amounts Customarily Consumed of 30 g or less or 2 tablespoons or less (for dehydrated foods that are typically consumed when rehydrated with water or a diluent containing an insignificant amount, as defined in 21 CFR 101.9(f)(1), of all nutrients per RACC, the per 50 g criterion refers to the prepared form of the food).
- When levels exceed: 13 g Total Fat, 4 g Saturated Fat, 60 mg Cholesterol, and 480 mg Sodium per RACC, per labeled serving or, for foods with small RACC, per 50 g, a disclosure statement is required as part of claim (e.g., "See nutrition information for ___ content" with the blank filled in with nutrient(s) that exceed the prescribed levels).
- The term "light" may be used to describe a physical or organoleptic attribute of the food if it clearly conveys the nature of the product, e.g., "light in color," "light intexture." 21 CFR 101.56(e)
- If there has been a long history of use of the term "light" associated with a product it may continue to be used, e.g., "light corn syrup," "light brown sugar." 21 CFR 101.56(f)

WARRANTIES

- A. The COMPLETE unit, without limitation, will be guaranteed against defects in material and workmanship for a term not less than twelve (12) months, or the Manufacturer's standard warranty, whichever is longer. All Texas statutes and case law with regard to implied warranty shall apply.
- B. The City's warranty is not an optional item, it is a mandatory item. In the event that a manufacturer of the unit or of component parts of the unit only provides an extended or optional warranty (which meets or exceeds the City's warranty) when the cost of this extended or optional warranty is in addition to their standard warranty, then the Contractor shall include the cost of this extended or optional warranty in the base price of the unit.

BIDDER'S [COMPANY] NAME _____

- C. **Warranty details must be submitted with bid.**
- D. All warranties shall run from the date of installation of the part in a unit.
- E. All warranties to cover all field repairs, labor, parts and transportation for return of goods, or to a repair facility. Warranty re-work, shall be accomplished in the same time as the original required service time set forth in **SECTION A** of the Contract.
- 1A. PARTS: Manufacturer’s standard warranty, copy to be submitted with offer.

_____ [time or other limits]
- 1B. SERVICE LABOR: Dealers standard service warranty as offered to commercial customers, and, or the component or sub-assembly, Manufacturer’s Service Warranty. Copies of applicable warranties must accompany your offer.

_____ [time or other limits]

EXCEPTION TO SPECIFICATIONS

Except as set forth below, the Offeror agrees it will perform the services under this Solicitation to the minimum standards set forth in Paragraph 1 of these Specifications (Section B).

OFFEROR TAKES THE FOLLOWING EXCEPTIONS TO THE SPECIFICATIONS SET FORTH ABOVE:

(Attach additional pages if needed)

SIGNATURE OF COMPANY REPRESENTATIVE (ONLY NEEDED IF TAKING EXCEPTION)

SECTION C

CONTRACT CLAUSES

1. TYPE AND TERM OF CONTRACT

This is a Requirements {Best Value} Contract under which the City shall order all of its supplies and/or services described in Section A from the successful bidder, hereinafter referred to as the Contractor, for the duration of the contract.

In the event the City has not obtained another service contractor by the expiration date of the term contract, the City, at its discretion, may extend the contract on a month-to-month basis not to exceed six (6) months until such time as a new contract is awarded.

The term of this agreement shall be for THIRTY SIX (36) MONTHS commencing on the date the Contractor receives a written NOTICE OF AWARD. Delivery of the NOTICE OF AWARD shall be by Certified Mail, and the date of receipt shall be established as the date of Delivery shown on the US Postal Service Domestic Return Receipt form or facsimile confirmation.

2. INVOICES & PAYMENTS

- A. The Contractor will submit invoices, in single copy, on each contract after each delivery. Invoices covering more than one purchase order will not be accepted.
- B. Invoices will be itemized, including serial number of unit; transportation charges, if any, will be listed separately.
- C. Invoices will reflect the Contract Number and the Purchase Order Number.
- D. Do not include Federal Tax, State Tax, or City Tax. The City will furnish a tax exemption certificate upon request.
- E. Discounts will be taken from the date of receipt of goods or date of invoice, whichever is later.
- F. A copy of the bill of lading and the freight waybill when applicable will be attached to the invoice.
- G. Payment will not be due until the above instruments are submitted after delivery and acceptance.
- H. Mail invoices to the City Department indicated in the Invoice Instructions set forth on the Purchase Order.
- I. Contractor shall advise the Comptroller of any changes in its remittance addresses.

3. CONTRACTUAL RELATIONSHIP

Nothing herein will be construed as creating the relationship of employer and employee between the City and the Contractor or between the City and the Contractor's employees. The City will not be subject to any obligations or liabilities of the Contractor or his employees incurred in the performance of the contract unless otherwise herein authorized. The Contractor is an independent Contractor and nothing contained herein will constitute or designate the Contractor or any of his employees as employees of the City. Neither the Contractor nor his employees will be entitled to any of the benefits established for City employees, nor be covered by the City's Workers' Compensation Program.

4. INDEMNIFICATION [Rev. 04-15-99] [Rev. 01-04-04]

Contractor or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. Contractor will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Contractor may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Contractor will pay all judgments finally establishing liability of the City in actions defended by Contractor pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Contractor, and premiums on any appeal bonds. The City, at its election, will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to the Contractor's property from any cause.

5. GRATUITIES

The City may, by written notice to the Contractor, cancel this contract without liability to Contractor if it is determined by the City that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the City of El Paso with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making or any determinations with respect to the performing of such a contract. In the event this contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

6. WARRANTY-PRICE

A. The price to be paid by the City will be that contained in the Contractor's bid which the Contractor warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this contract for similar quantities under similar or like conditions and methods of purchase. In the event Contractor breaches this warranty the prices of the items will be reduced to the Contractor's current prices on orders by others, or in the alternative, the City may cancel this contract without liability to Contractor for breach or Contractor's actual expense.

B. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the City will have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

7. RIGHT TO ASSURANCE

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) calendar days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

8. TERMINATION [Rev. 06/07/97]

A. Termination for Convenience

The City of El Paso may terminate this contract, in whole or in part, at any time by written notice to the Contractor. The Contractor will be paid its costs, including the contract close out costs, and profit on work performed up to the time of termination. The Contractor will promptly submit its termination claim to the City of El Paso to be paid the Contractor. If the Contractor has any property in its possession belonging to the City of El Paso, the Contractor will account for the same, and dispose of it in the manner the City of El Paso directs.

B. Termination for Default

If the Contractor fails to comply with any provision of the contract the City of El Paso may terminate this contract for default. Termination shall be effected by serving a notice of intent to terminate the contract setting forth the manner in which the Contractor is in default. The Contractor will be given an opportunity to correct the problem within a reasonable time before termination notice is rendered. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. The City shall have the right to immediately terminate the Contract for default if the Contractor violates any local, state, or federal laws, rule or regulations that relate to the performance of this Agreement.

9. ADDITIONAL REMEDIES [New 12/96]

If the City terminates the contract because the Contractor fails to deliver goods as required by the contract, the City shall have all of the remedies available to a buyer pursuant to the *UNIFORM COMMERCIAL CODE* including the right to purchase the goods from another vendor in substitution for those due from the Contractor. The cost to cover shall be the cost of substitute goods determined by informal or formal procurement procedures as required by the Local Government Code. The City may recover the difference between the cost of cover and the contract cost by deducting the same from amounts owed to Contractor for goods delivered prior to termination or any other lawful means.

10. TERMINATION FOR DEFAULT BY CITY [Rev. 06/09/97]

If the City fails to perform any of its duties under this contract, Contractor may deliver a written notice to the Purchasing Manager describing the default, specifying the provisions of the contract under which the Contractor considers the City to be in default and setting forth a date of termination not sooner than 90 days following receipt of the Notice. The Contractor at its sole option may extend the proposed date of termination to a later date. If the City fails to cure such default prior to the proposed date of termination, Contractor may terminate its performance under this Contract as of such date.

11. FORCE MAJEURE [Rev. 06/07/97]

If, by reason of Force Majeure, either party hereto will be rendered unable wholly or in part to carry out its obligations under this Contract then such party will give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, will be suspended for only thirty (30) days during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party will try to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, will mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals. It is understood and agreed that the settlement of strikes and lockouts will be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure will be remedied with all reasonable dispatch will not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty. If a party is unable to comply with the provisions of this contract by reason of Force Majeure for a period beyond thirty days after the event or cause relied upon, then upon written notice after the thirty (30) days, the affected party shall be excused from further performance under this contract.

12. ASSIGNMENT-DELEGATION

No right or interest in this contract will be assigned or delegation of any obligation made by the Contractor without the written permission of the City. Any attempted assignment or delegation by the Contractor will be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

13. WAIVER

No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

14. INTERPRETATION-PAROL EVIDENCE

This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their contract. No course of prior dealings between the parties and no usage of the trade will be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this contract, the definition contained in the Code is to control.

15. APPLICABLE LAW

The law of the State of Texas will control this contract along with any applicable provisions of Federal law or the City Charter or any ordinance of the City of El Paso.

16. ADVERTISING

Contractor will not advertise or publish, without the City's prior consent, the fact that the City has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

17. AVAILABILITY OF FUNDS

The awarding of this contract is dependent upon the availability of funding. In the event that funds do not become available the contract may be terminated or the scope may be amended. A 30-day written notice will be given to the vendor and there will be no penalty nor removal charges incurred by the City.

18. VENUE

Both parties agree that venue for any litigation arising from this contract will lie in El Paso, El Paso County, Texas.

19. ADDITIONAL REMEDY FOR HEALTH OR SAFETY VIOLATION

If the Manager of Purchasing determines that Contractor's default constitutes an immediate threat to the health or safety of City employees or members of the public he may give written notice to Contractor of such determination giving Contractor a reasonable opportunity to cure the default which shall be a period of time not less than 24 hours. If the Contractor has not cured the violation within the time stated in the notice, the City shall have the right to terminate the contract immediately and obtain like services as necessary to preserve or protect the public health or safety from another vendor in substitution for those due from the Contractor at a cost determined by reasonable informal procurement procedures. The City may recover the difference between the cost of substitute services and the contract price from Contractor as damages. The City may deduct the damages from Contractor's account for services rendered prior to the Notice of Violation or for services rendered by Contractor pursuant to a different contract or pursue any other lawful means of recovery. The failure of the City to obtain substitute services and charge the Contractor under this clause is not a bar to any other remedy available for default.

20. COMPREHENSIVE GENERAL LIABILITY INSURANCE

For the duration of this contract and any extension hereof, Contractor shall carry in a solvent company authorized to do business in Texas, comprehensive general liability insurance in the following amounts:

\$1,000,000.00 – Per Occurrence
 \$1,000,000.00 – General Aggregate
 \$1,000,000.00 – Products/Completed Operations-Occurrence & Aggregate

With respect to the above-required insurance, the City of El Paso and its officers and employees shall be named as additional insured as their interests may appear. The City shall be provided with sixty (60) calendar days advance notice, in writing, of any cancellation or material change. The City shall be provided with certificates of insurance evidencing the above required insurance prior to the commencement of this contract and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) calendar days prior to the expiration or cancellation of any such policies.

Notices and Certificates required by this clause shall be provided to:

City of El Paso
 Financial Services Department/Purchasing Division
 2 Civic Center Plaza, 7th Floor
 El Paso, Texas 79901-1153
 Attn: TERRENCE FREIBURG, PROCUREMENT ANALYST

Please refer to Bid Number/Contract Number and Title in all correspondence.

Failure to submit insurance certification may result in contract cancellation.

21. WORKERS' COMPENSATION

For the duration of this contract and any extension hereof, Contractor shall carry Workers' Compensation and Employers' Liability Insurance in the amount required by Texas law: \$500,000.00. Out-of-state Contractors that provide goods through US mail, UPS, etc. are exempt from this requirement.

22. CONTRACT ADMINISTRATION

The point of contact for the administration of this Contract, on behalf of the City of El Paso, is:

TERRENCE FREIBURG
 PROCUREMENT ANALYST
 Telephone: (915) 541-4315
 Fax: (915) 541-4347
 Email: FREIBURGTGX@elpasotexas.gov

Mail correspondence should be addressed to:

City of El Paso
 Financial Services Department/Purchasing Division
 2 Civic Center Plaza, 7th Floor
 El Paso, TX 79901-1153
 Attn: TERRENCE FREIBURG, PROCUREMENT ANALYST

Please refer to Bid Number/Contract Number and Title in all correspondence.

23. COMPLIANCE WITH NON-DISCRIMINATION LAWS

The Contractor agrees that it, its employees, officers, agents, and subcontractors, will comply with all applicable federal and state laws and regulations and local ordinances of the City of El Paso in the performance of this Contract, including, but not limited to, the American with Disabilities Act, the Occupational Safety and Health Act, or any environmental laws.

The Contractor further agrees that it, its employees, officers, agents, and subcontractors will not engage in any employment practices that have the effect of discriminating against employees or prospective employees because of sex, race, religion, age, disability, ethnic background or national origin, or political belief or affiliation of such person, or refuse, deny, or withhold from any person, for any reason directly or indirectly, relating to the race, gender, gender identity, sexual orientation, color, religion, ethnic background or national origin of such person, any of the accommodations, advantages, facilities, or services offered to the general public by place of public accommodation.

24. RIGHT TO AUDIT

The Contractor agrees that the City shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and copy any directly pertinent books, computer and digital files, documents, papers, and records of the Contractor involving transactions relating to this Contract. Contractor agrees that the City shall have access during normal working hours to all necessary Contractor facilities, and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The City shall give Contractor reasonable advance notice of intended audits. The City will pay Contractor for reasonable costs of any copying the City performs on the Contractor's equipment or requests the Contractor to provide. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

The Contractor agrees that it will include this requirement into any subcontract entered into in connection with this Contract.

25. CONTRACTOR TO PACKAGE GOODS

The Contractor will package goods according to good commercial practice. Each shipping container will be clearly and permanently marked as follows: (a) Contractor's name and address; (b) Consignee's name, address and purchase order; (c) Container number and total number of containers, e.g., "box 1 of 4 boxes"; and (d) the number of the container bearing the packing slip. The Contractor will bear cost of packaging unless otherwise provided. Goods will be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. The City's count or weight will be final and conclusive on shipments not accompanied by packing lists.

26. SHIPMENT UNDER RESERVATION PROHIBITED

The Contractor is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.

27. DELIVERY TERMS AND TRANSPORTATION CHARGES

F.O.B. Destination Freight Prepaid unless delivery terms are specified otherwise in bid; the City agrees to reimburse the Contractor for transportation costs in the amount specified in the Contractor's bid, or actual costs, whichever is lower, if the quoted delivery terms do not include transportation costs, provided the City will have the right to designate what method of transportation will be used to ship the goods.

28. TITLE & RISK OF LOSS

The title and risk of loss of the goods will not pass to the City until the City actually receives and takes possession of the goods at the point or points of delivery.

29. RIGHT OF INSPECTION

The City will have the right to inspect the goods at delivery before accepting them.

30. NO REPLACEMENT OF DEFECTIVE TENDER

Every tender or delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this will constitute a breach and the Contractor will not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Contractor may reasonably notify the City of his intention to cure and may then make a conforming tender within the contract time but not afterward.

31. PLACE OF DELIVERY

The place of delivery will be that set forth in the solicitation. The terms of this contract are "no arrival, no sale."

32. WARRANTY-PRODUCT

The Contractor will not limit or exclude any implied warranties and any attempt to do so will render this contract voidable at the option of the City. Contractor warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the bid invitation, and to the sample(s) furnished by Contractor, if any. In case of a conflict between the specifications, drawings and descriptions, the drawings and descriptions will govern.

33. SAFETY WARRANTY

Contractor warrants that the product sold to the City will conform to the standards promulgated by the US Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, the City may return the product for correction or replacement at the Contractor's expense. In the event the Contractor fails to make the appropriate correction within reasonable time, correction made by the City will be at the Contractor's expense.

34. NO WARRANTY BY THE CITY AGAINST INFRINGEMENTS

As part of this contract for sale Contractor agrees to ascertain whether goods manufactured according to the specifications attached to this contract will cause the rightful claim of any third person by way of infringement or the like. The City makes no warranty that the production of goods according to the specification will not give rise to such a claim and in no event will the City be liable to the Contractor for indemnification if Contractor is sued on the grounds of infringement or the like. If Contractor is of the opinion that an infringement or the like will result, he will notify the City to this effect in writing within two weeks after the signing of this contract. If the City does not receive notice and is subsequently held liable for the infringement or the like, the Contractor will save the City harmless (if the Contractor in good faith ascertains that production of goods according to the specifications will result in infringement or the like, this contract will be null and void except that the City will pay the Contractor the reasonable cost of his search as to infringements).

SECTION D **FORMS**

BUSINESS INFORMATION CERTIFICATION

Mark all that apply.

- | | |
|---|---|
| <input type="checkbox"/> Manufacturer or Producer
<input type="checkbox"/> Wholesaler
<input type="checkbox"/> Retailer
<input type="checkbox"/> Franchised Distributor
<input type="checkbox"/> Factory Representative
<input type="checkbox"/> Other _____
<input type="checkbox"/> Large Business
<input type="checkbox"/> Small Business | <input type="checkbox"/> Disadvantaged Business Enterprise
<input type="checkbox"/> Asian - Pacific American
<input type="checkbox"/> Black American
<input type="checkbox"/> Hispanic American
<input type="checkbox"/> Native American
<input type="checkbox"/> Woman Owned Business
<input type="checkbox"/> Handicapped
<input type="checkbox"/> Local Business Enterprise
<input type="checkbox"/> HUB State Certified Historically Underutilized Business
(please furnish copy of Certification) |
|---|---|

SMALL BUSINESS CONCERN: Less than \$1,000,000.00 in annual receipts or fewer than one hundred [100] full time employees.

DISADVANTAGED BUSINESS ENTERPRISE: At least fifty-one percent [51%] owned by one or more socially disadvantaged individuals, or a publicly held corporation with at least fifty-one percent [51%] of the stock owned by one or more such individuals.

WOMAN-OWNED BUSINESS: At least fifty-one percent [51%] owned by a woman, or women, who also control and operate the business. "Control" in this context means making policy decisions. "Operate" in this context means actively carrying on day to day management

HANDICAPPED: At least fifty-one percent [51%] owned by a person or persons with an orthopedic, otic [hearing], optic [visual], or mental impairment which substantially limits one or more of their major life activities.

LOCAL BUSINESS ENTERPRISE: A legal entity, a least fifty-one percent [51%] of which is owned by a resident, or residents of El Paso County, and which concern has been physically located within the legal boundaries of El Paso county for at least twelve [12] months.

HUB [HISTORICALLY UNDERUTILIZED BUSINESS]: A Business Enterprise, which has been granted a Certificate by the State of Texas, as a Historically Underutilized Business. The City of El Paso utilizes information on Historically Underutilized Businesses (HUB), from the State of Texas Comptroller of Public Accounts (CPA), HUB Program, 1711 San Jacinto Ave, P.O. Box 13186, Austin, Texas 78711. The City encourages you to contact the State if you feel you may qualify.

I certify that the foregoing information is a full, true and correct statement of the facts.

Signature of Person Authorized to Sign Application

Title

Date

BIDDER'S [COMPANY] NAME _____

2011-269 VENDING MACHINE SERVICES

SECTION D, PAGE: 1



**City Of El Paso
Financial Services Department – Purchasing Division**

NON-COLLUSION AND BUSINESS DISCLOSURE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared _____, a person known to me to be the person whose signature appears below; whom after being duly sworn upon his/her oath deposed and said:

1. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
2. I am a duly authorized representative of the following company or firm (the “Bidder”) which is submitting a response to 2011-269 VENDING MACHINE SERVICES - GENERAL SERVICES:

_____ (Name of Bidder).

3. **BY SUBMITTING THIS BID, I CERTIFY THAT BIDDER AND ITS AGENTS, OFFICERS OR EMPLOYERS HAVE NOT DIRECTLY OR INDIRECTLY ENTERED INTO ANY AGREEMENTS, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THIS PROPOSAL OR WITH ANY CITY OFFICIAL.**
4. I have listed in Paragraph 10 below all the names the Bidder uses and has used in the past and certify that I have disclosed all such names, including any assumed (DBA) names.
5. **Certificate of Organization.** In completing this Affidavit, I have attached a copy of the organization certificate issued by the Secretary of State of the state in which the company was organized (i.e. Certificate of Formation, Certificate of Good Standing, Statement of Operation or Registration and/or a copy of Assumed Name Certificate if the bidder/proposer used a trade name in the Solicitation documents is other than the name under which company was organized).
6. **Material Change in Organization or Operation.** *Except as described in Paragraph 10 below*, I certify that Bidder is not currently engaged nor does it anticipate that it will engage in any negotiation or activity that will result in the merger, transfer of organization, management reorganization or departure of key personnel within the next twelve (12) months that may affect the Bidder’s ability to carry out the contract with the City of El Paso.
7. **Debarment/Suspension.** *Except as described in Paragraph 10 below*, I certify that Bidder and its subcontractors, officers or agents are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any covered transactions by any federal, state or local department or agency. If such an event has occurred, state in Paragraph 10 below, the reason for or the circumstances surrounding the debarment or suspension, including but, not limited to, the name of the governmental entity, the period of time for such debarment or suspension and provide the name and current phone number of a governmental contact person familiar with the debarment or suspension.

I understand the Bidder is obligated to immediately inform the City in the event that the Bidder is included in such a debarment/suspension list during the performance of this Contract with the City of El Paso.
8. **Default/Termination of Contracts.** *Except as described in Paragraph 10 below*, I certify that, within the last 24 months, there are no Contract(s) between the Bidder and a governmental entity that have been terminated, with or without the Bidder’s default. If such a contract has been terminated within the last 24 months, state in Paragraph 10 below the reason for or circumstances surrounding the termination.

BIDDER’S [COMPANY] NAME _____

2011-269 VENDING MACHINE SERVICES

SECTION D, PAGE: 2

9. **Taxpayer Identification.** In completing this Affidavit, I have also attached a copy of a completed Form W-9 that shows the Bidder's taxpayer identification number (Employer Identification Number or Social Security Number). I understand that failure to provide this information may require the City to withhold 20% of payments due under the contract and pay that amount directly to the IRS.

10. Additional Information (state the number of paragraph above which corresponds to the information provided)

(Attach additional pages if needed)

Attached are the following:

- Certificate of Organization (required by Paragraph 5)
- Taxpayer Identification (required by Paragraph 9)

I understand that by providing false information on this Affidavit, I could be found guilty of a Class A misdemeanor or state jail felony under the Texas Penal Code, Section 37110. In addition, by providing false information on this Affidavit, the Bidder it could be considered not responsible on this and future solicitations, and such determination could result in the discontinuation of any/all business or contracts with the Bidder by the City of El Paso.

	_____ Signature
SUBSCRIBED AND SWORN to before me on this	_____ day of _____, 20_____.
	_____ Notary Public
	_____ Printed Name
	_____ Commission Expires



**City Of El Paso
Financial Services Department – Purchasing Division**

INDEBTEDNESS AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT – RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned authority, on this day personally appeared _____ [FULL NAME]
(hereafter “*Affiant*”), a person known to me to be the person whose signature appears below, whom after being duly sworn upon
his/her oath deposed stated as follows:

1. Affiant is authorized and competent to give this affidavit and has personal knowledge of the facts and matters herein stated.
2. Affiant is an authorized representative of the following company or firm: _____
[Contracting Entity’s Corporate or Legal Name] (hereafter, “*Contracting Entity*”).
3. Affiant is submitting this affidavit in response to the following bid: *Solicitation No. 2011-269 VENDING MACHINE SERVICES - GENERAL SERVICES*, which is expected to be in an amount that exceeds \$50,000.00.
4. Contracting Entity is organized as a business entity as noted below (check box as applicable):

For Profit Entity (select below):

- ☐ Sole Proprietorship
- ☐ Corporation
- ☐ Partnership
- ☐ Limited Partnership
- ☐ Joint Venture
- ☐ Limited Liability Company
- ☐ Other (Specify type in space provided below):

For Non-Profit Entity or Other (select below):

- ☐ Non-Profit Corporation
- ☐ Unincorporated Association

5. The information shown below is true and correct for the Contracting Entity. If Contracting Entity is a sole proprietorship or partnership, list all owners of 5% or more of the Contracting Entity. Where the Contracting Entity is an unincorporated association, the required information has been shown for each officer. [Note: In all cases, use FULL name, business and residence addresses and telephone numbers.]

Contracting Entity:

Name	
Business Address [No./Street]	
City/State/Zip Code	
Telephone Number	
Resident Address (if applicable)	
City/State/Zip Code	
Telephone Number	
Federal Tax ID Number	
Texas Sales Tax Number	

5% Owner(s) or Officers of Unincorporated Association ** (If none, state "None"):

Name	
Business Address [No./Street]	
City/State/Zip Code	
Telephone Number	
Resident Address (if applicable)	
City/State/Zip Code	
Telephone Number	

**Attach additional pages if necessary to supply the required names and addresses.

6. Affiant understands that in accordance with Ordinance No. 016529 of the City of El Paso (the "**City**"), the City may refuse to award a contract to or enter into a transaction with Contracting Entity that is an apparent low bidder or successful proposer that is indebted to the City.
7. Affiant understands that the term "**Debt**" shall mean any sum of money, which is owed to the City by a Contracting Entity, Owner, or Vendor, that exceeds one hundred dollars (\$100.00) and that has become Delinquent, as defined hereinafter. Such Debt shall include but not be limited to: (i) property taxes; (ii) hotel/motel occupancy taxes; and (iii) license and permit fees.
8. Affiant understands that the term "**Delinquent**" shall mean any unpaid Debt that is past due for sixty (60) days or more and, which is not currently subject to challenge, protest, or appeal.
9. Affiant represents that to the best of its knowledge, the Contracting Entity is not indebted to the City in any amounts as described in Item No. 7 above, as of the date of the submittal. If the Contracting Entity is indebted to the City, the following represents the type and estimated amount of indebtedness:

10. If the Contracting Entity is indebted to the City, describe any payment arrangements that have been entered into to settle the Debt.

11. In the event that the City refuses to do business with a Contracting Entity due to any indebtedness listed above or as determined by the City Financial Services Department, the Contracting Agency may appeal this determination in accordance with the appeal regulations in Ordinance 016529.

Affiant certifies that he is duly authorized to submit the above information on behalf of the Contracting Entity, that Affiant is associated with the Contracting Entity in the capacity noted above and has personal knowledge of the accuracy of the information provided herein; and that the information provided herein is true and correct to the best of Affiant's knowledge and belief. Affiant understands that providing false information on this form shall be grounds for debarment and discontinuation of any/all business with the City of El Paso.

SUBSCRIBED AND SWORN to before me on this

Signature

_____ day of _____, 20_____.

Notary Public

Printed Name

Commission Expires

(Rev. Sept. 2009)

BIDDER'S [COMPANY] NAME _____

2011-269 VENDING MACHINE SERVICES

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SECTION E

NOTICES AND INSTRUCTIONS TO OFFERORS

1. SIGNATURE OF OFFER BY PERSON AUTHORIZED TO SIGN

All offers shall bear an original signature, in ink, of a responsible officer or agent of the company. Failure to sign the OFFER portion of the SOLICITATION, OFFER AND AWARD form, or to include a substitute signed document binding the offeror, will be the basis for declaring a bid non-responsive.

2. REQUIRED NUMBER OF COPIES

Offer (bid or proposal) must be submitted in original form with one additional copy, unless otherwise stated in Section B.

3. OFFER SUBMISSION INSTRUCTIONS

OFFER MUST BE SEALED WHEN PRESENTED TO THE PURCHASING DIVISION. Offers will be received by the City of El Paso until **2:00 P.M., local time, on WEDNESDAY, JUNE 22, 2011. Bids will be publicly opened and read; proposals will be announced.**

THE CITY DOES NOT PROVIDE ENVELOPES FOR THE PURPOSE OF SUBMITTING OFFERS.

4. ADDRESSING INSTRUCTIONS

The envelope containing the offer must be addressed as follows:

CITY OF EL PASO
FINANCIAL SERVICES DEPT/PURCHASING DIVISION
2 CIVIC CENTER PLAZA, 7TH FLOOR
EL PASO, TEXAS 79901-1153
ATTN: PURCHASING MANAGER

Also, write the **BID NUMBER**, **BID TITLE**, and **BID OPENING DATE** clearly on a visible section of the envelope.

5. LABELING OF BIDS [Rev 6/15/05]

The Due Date and Solicitation Number must be written on the outside of the package containing the offer. The City Purchasing Division may open any unlabeled submittal to identify it properly. Offerors are required to identify their package to protect the integrity of their sealed bids and to fully avail themselves of the sealed bid process.

6. OFFERER DELIVERY RESPONSIBILITY

Bids received at the Purchasing Office after the specified date and time will not be accepted. Package delivery services such as FedEx, UPS, etc. deliver packages addressed to the Purchasing Manager directly to the Purchasing Division. U.S. Postal Service deliveries, including Express Mail, are only delivered to the Mail Room at City Hall and may or may not be delivered by the Mail Room to the Purchasing Division by the time and place bids are opened. The offeror accepts all responsibility for delivering its offer to address stated above within the specified time or the offer will be considered non-responsive and will be mailed back unopened. If the envelope does not reflect a return address, it will be opened for the sole purpose of obtaining the return address.

7. DESCRIPTIVE LITERATURE

Descriptive literature, where applicable, containing complete specifications or other information sufficient for the City to determine compliance with the specifications must accompany each bid, in DUPLICATE. If an offeror wishes to furnish additional information more sheets may be added.

8. OFFER DOCUMENTS, SUPPORTING LITERATURE AND RELATED DATA

Related data, where applicable, will be made part of the bid. All documents, literature and related data submitted as an offer become the property of the City of El Paso.

9. ALTERNATE OFFERS

Alternate offers may be submitted if they meet the minimum requirements of the specifications. For full consideration all necessary technical data will be furnished with such alternate bids so proper evaluations can be made.

10. SOLICITATION CHANGES OR CLARIFICATIONS

Requests for changes or clarifications to this solicitation are welcomed by the Purchasing Division for its consideration, provided the requests are made in writing and received at least ten calendar days before the bid opening date. Requests received after that time may not elicit a response. Refer to REQUESTS FOR CLARIFICATION in Section B for more details.

11. ACKNOWLEDGMENT OF SOLICITATION AMENDMENTS

All Amendments will be acknowledged on the *Solicitation of Offers* form (first page of this bid). Failure to do so may cause the bid to be rejected.

12. BID PREPARATION COSTS

This solicitation does not commit the City of El Paso to pay any costs incurred in preparing and submitting the proposal or to contract for the services specified.

13. DEFINITION OF COMPLETE

The word "complete" means that each proposed unit of equipment will include all appurtenances, fasteners, parts, accessories and services ordinarily catalogued.

14. ADDITIONAL INFORMATION

For further procedural information concerning this Invitation for Bids contact the point of contact for contract administration (refer to CONTRACT ADMINISTRATION in Section C for contact details).

15. ACCEPTANCE OR REJECTION OF BIDS

The City reserves the right to accept or reject any or all bids, to waive all minor technicalities, and to accept the bid or bids determined to be the most favorable to the City. Additionally, the City may accept a bid subject to an exception if, in the sole judgment of the City, the bid meets or exceeds the City's specifications.

16. TIME AND PLACE OF OPENING

Offers will be opened and read in Council Chambers, Second Floor, City Hall, shortly after 2:00 p.m. on opening day. However, you are cautioned that offers must be received in the Purchasing Division, before the time stated in item #3 above.

17. NOTICE TO NONRESIDENTS

Offers received from nonresidents (bidders whose principal place of business is not in the State of Texas) must be lower than offers from Texas bidders by the same amount that a Texas bidder would be required to underbid a resident bidder, to obtain a comparable contract, in the state in which a nonresident bidder's business is located. This paragraph does not apply to contracts involving federal funds.

18. ROUNDING

Except those commodities normally priced to four decimal places, bids submitted beyond two decimals will be rounded off to the nearest cent.

19. UNIT PRICES

In the event of a discrepancy between the unit price offered, and the extension thereof, the unit price shall prevail.

20. TIE BIDS [REV. 06/10/97]

In case of a tie, the successful bid will be determined by lot unless the principal place of business of one, but not more than one, of the parties to the tie is located in the City of El Paso in which case the award will be made to the local vendor.

21. BID RESULTS

Any questions concerning bid results should be directed to the point of contact for contract administration.

22. BID TABULATIONS

The point of contact for contract administration will accept requests for a copy of the completed tabulated report of bid results after 2:00 P.M., Tuesday of the week following bid opening (refer to CONTRACT ADMINISTRATION in Section C for contact details). The bid tab results will also be made available on the City web site at http://www.elpasotexas.gov/financial_services/bid_tabs.asp. No results will be given over the phone.

23. FAILURE TO RESPOND TO SOLICITATIONS

Any offeror who fails to respond to three consecutive solicitations will be purged from the mailing list. It is the offeror's responsibility to remain on the mailing list under his requested commodity classes.

24. TIME

Time of delivery is of the essence.

25. DEBRIEFING REQUESTS

A written request for a debriefing should be directed to the Analyst identified in CONTRACT ADMINISTRATION in Section C within five (5) days after the date of award. Debriefing requests will be scheduled with the appropriate evaluation committee and Purchasing representative.

26. PROTEST/DISPUTE PROCEDURE

Only a bidder who has actually submitted a bid response/proposal may appeal an award decision.

Failure to follow the requirements of the Protest procedures established by the City of El Paso, Texas, shall constitute a waiver of all protest rights.

Protest must be made after the Council agenda has been posted and by 5 p.m. the day before the Council meeting in which the award will be made. The bidder must write a letter to the Purchasing Manager using the phrase "Bid Protest" to the address listed above. Protest must be sent by certified or registered mail or delivered in person. Note: the recommendation for award is posted on the City's website at least 72 hours before each Tuesdays Council meeting.

The written protest should include 1) the bid number and should clearly state, with particularity, the relevant facts believed to constitute an error in the award recommendation, or desired remedy; 2) a specific identification of the statutory or regulatory provision that the Protesting Bidder alleges has been violated and the provisions entitling the Protesting Bidder to relief; 3) a specific factual description, with particularity, of each action by the City that the Protesting Bidder alleges to be a violation of the statutory or regulatory provision that the Protesting Bidder has identified pursuant to item (2) of this paragraph (mere disagreement with the decisions of City employees does not constitute grounds for protest). If there is no disputed issue of the material fact, the Protest must indicate this as well.

Only the information provided within the protest period will be considered in making a recommendation to Council.

35. COOPERATIVE PURCHASING

When stated specifically in the solicitation, the City of El Paso may participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more other public bodies or agencies of the State of Texas for the purpose of combining requirements to increase the efficiency or reduce administrative expenses. The Contractor must deal directly with each participating governmental entity named in the solicitation concerning the placement of orders, issuance of the purchase order, insurance certificates, contractual disputes, invoicing and payment or any other terms or conditions the participating agency may require. The actual utilization of this contract award by the participating governmental entity is at the sole discretion of that participating entity. The City of El Paso is acting on behalf of the participating governmental agency for the sole purpose of complying with Texas competitive bidding requirements and shall not be held liable for any costs, damages, etc. incurred by the Contractor with regard to any purchase by the participating agency. The City of El Paso shall be legally responsible only for payment for goods and services in the quantities detailed in the City's own purchase order or contract.